

Assembly Bill No. 1158

CHAPTER 14

An act to amend Section 1340 of the Penal Code, relating to witnesses.

[Approved by Governor May 16, 2008. Filed with
Secretary of State May 16, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1158, Benoit. Witnesses: conditional examinations.

Existing law authorizes the conditional examination of a witness who may be unavailable at trial for a specific reason.

This bill would allow the examination to be conducted through a contemporaneous, 2-way video conference system if the witness is so sick or infirm as to be unable to attend the examination in person, as specified.

The people of the State of California do enact as follows:

SECTION 1. Section 1340 of the Penal Code is amended to read:

1340. (a) The defendant has the right to be present in person and with counsel at the examination, and if the defendant is in custody, the officer in whose custody he or she is, must be informed of the time and place of the examination, and must take the defendant thereto, and keep him or her in the presence and hearing of the witness during the examination.

(b) If the court determines that the witness to be examined is so sick or infirm as to be unable to participate in the examination in person, the court may allow the examination to be conducted by a contemporaneous, two-way video conference system, in which the parties and the witness can see and hear each other via electronic communication.

(c) Nothing in this section is intended to require the court to acquire two-way video conference equipment for these purposes.